

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

VINCENT DANIEL HOPPER, a/k/a
ANTOLIN ANDREW MARKS,

Plaintiff,

v.

MARVEL L. MORRISON, *et al.*,

Defendants.

Case No. C06-5058FDB

ORDER ON PENDING
MOTIONS

This matter is before the court on the following motions: (i) plaintiff's motions to strike (Doc. 35); (ii) plaintiff's motion to compel (Doc. 38); (iii) plaintiff's motion to amend complaint (Doc. 45); and (iv) plaintiff's notification of his changed name (Doc. 50).

The court, having reviewed these motions and the balance of the record, does hereby find and
ORDER:

(1) Plaintiff motion to strike (doc. 35) is GRANTED. At issue is plaintiff's objection to the Federal Defendants continued use of the term "prisoner plaintiff" in reference to Plaintiff. Mr. Hopper argues that the use of the term prisoner implies that he is being criminally detained and that is not the case. Mr. Hopper is a detainee pending deportation proceedings and he is not serving a criminal sentence. The court notes defendants argument that their use of the term "prisoner" encompasses a broad classification of any person that is being held against their will, but the court finds that the legal meaning of a prisoner is one that is serving a criminal sentence, and in this case, the argument is easily avoided by merely referring to Mr. Hopper as the "Plaintiff" in this lawsuit. Accordingly, the court is granting the motion. Defendants shall not make any further use of the term "prisoner plaintiff" in this matter, and it is noted for the record

1 that any prior such reference does not refer to Mr. Hopper as a criminal, but only as a person being held
2 against his will.

3 (2) On June 19, 2006, the court issued an order staying discovery in this matter until the court has
4 ruled on the pending dispositive motions. The undersigned as issued a report and recommendation to grant
5 defendants' motions to dismiss. Accordingly, plaintiff's motion to compel discovery in this matter is
6 DENIED.

7 (3) Plaintiff's motion to amend his complaint (Doc. 45) is DENIED. The court has reviewed the
8 Amended Complaint submitted and has determined that it would be futile to amend the complaint in the
9 manner proposed, as it fails to allege facts sufficient to support a Eighth Amendment violation claim.
10 Moreover, the court incorporated the claims and defendants in the Amended Complaint it its report and
11 recommendation for review by the Honorable Franklin D. Burgess.

12 (4) Plaintiff request to change his name in the caption of this lawsuit is GRANTED. Accordingly,
13 the caption shall refer to Plaintiff as "Vincent D. Hopper, a/k/a Antolin Andrew Marks.

14 (5) The Clerk is directed to send copies of this order to plaintiff along with a copy of a current
15 docket report.

16 DATED this 13th day of September, 2006.

17 /s/ J. Kelley Arnold
18 J. Kelley Arnold
19 United States Magistrate Judge
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